

PRD-410
4-83

CASE

NUMBER:

99.177

March 26, 1999

(1)

To: Ms. Belle, ^{Chairman} ~~Commissioner~~ ^{of} ~~the~~ ^{the} ~~State~~ ^{of} ~~Illinois~~ ^{Illinois}

JUL 28 1999
RECEIVED
STATE OF ILLINOIS
COMMISSION

99-177

I have contacted the Commission
to be fore to voice my concerns for
what has happened & is happening
at Addison, I took time from
work to attend the hearing to
voice my opinions. It seems that
these attempts by myself & others
in trying to get someone, least
of all the commission, to protect
the rights of the wishes of the
public citizens of Addison have been
met with a plethora of different
& varied opinions & pure red tapes.

Now the Commission once again seems
ready to go along with the wishes
of a high priced counsel for
the Lucas family, instead of upholding
the "public trust".

I would like to respond to some of the points presented in your latest letter.

Thank you for your decision to

not allow the proposed rate increase of 2,66% that Mr Lewis & his Attorney, tried to pull off. (page 2)

You state in page 2 of your letter that there was a basis held in this case & the list several items that

were presented at that time & so as to say that Mr Lewis, et al,

did little to satisfy your questions, opinions, & orders. Why? Why was the Certificate granted for this ussions &

assigning disreposed for your published requests & orders?

The witnesses for me Lewis shared is this hearing that Mr Lewis was the sole operation of the system - B.A. Hawley, L.

Mr. Lucas' wife, Margie Lucas & his sons & three wives were in main family in close contact. Mr. Lucas. As Mr. Lucas' closest & surviving heir & a signed party, along with the sons & three wives, do the deals of the Addison periods, was undoubtedly a party & party's part in the Addison venture. I was personally told or made know on occasion that Mr. Lucas took care of the "books" for Addison & deposited the monies collected from said operations. Did Mr. Lucas' household operations cease at his death because he was the "sole operator" of that entity - of course not. Did any of his other varied & many ventures with & thru his wife & sons cease operation at his death - I think not!

I feel that this "motion to disqualify" is only another play in a long line

(5)

(3) It is a sad fact that we have
it deceased. I visited the funeral
home myself. It was a cousin of
mine & I have known his extended
family for years - since I was a
small boy orphans.

(4) There are several indications that
other people in the family are a part
of the family responsible for Addison.
If we knew, Sr. was going to be
the sole owner & recipient of the
reimburse from the purchase, sale, &
operation of the Addison community,
then why was his wife coaxed to
sign our deeds, why were his
sale & share with wives coaxed to
sign our deeds. Why does the
fact that the ~~other~~ parties at signature
to the deed will provide, for a
reason to be, seven & water cease
to the purchaser of said property?

(6)

Are leads of record not kept
documents in the proceedings of
the Commission? I should hope
that the Commission ought to have
somebody to uphold the public
trust first of names & assets
observe the wives of business
& big money operations.

I would request that you
not find that Addison is
Abandoned if therefore you
would advise your son that

① Addison be declared abandoned - do do!!
do!!!

② A reason be Appointed - order
is had that the other parties
of record in his estate be
caused to hold their legal
obligations to the children
Addison.

(7)

Thank you for your firm
& consideration in this matter!

Considerately
Henry M. D.

LESLAY H. BARN
R.R. 2, BOWLING
Green, Ind., Ky.
40143-
9622

(502) 788-6034

INDEX FOR CASE: 99-177
TRI-VILLAGE WATER DISTRICT
Rates - PWA

IN THE MATTER OF THE PURCHASED WATER ADJUSTMENT OF
TRI-VILLAGE WATER DISTRICT

SEQ NBR	ENTRY DATE	REMARKS
0001	05/04/99	Application.
0002	05/04/99	Acknowledgement letter.
M0001	05/11/99	ASSISTANT ATT. GENERAL DAVID SPENARD-MOTION TO INTERVENE
0003	05/14/99	No deficiency letter.
0004	06/03/99	Final Order issued.



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 99-177
TRI-VILLAGE WATER DISTRICT

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on June 3, 1999.

Parties of Record:

Carol F. Tudor
Manager
Tri-Village Water District
3700 Highway 127 N.
Owenton, KY. 40359

Stephan Bell
Secretary of the Commission

SB/hv
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED WATER ADJUSTMENT OF)
TRI-VILLAGE WATER DISTRICT) CASE NO. 99-177

O R D E R

On May 4, 1999, Tri-Village Water District ("Tri-Village") applied for approval to adjust its rates pursuant to the purchased water adjustment procedure. KRS 278.015 and 807 KAR 5:068.

The Commission, having reviewed the record and being sufficiently advised, finds that:

1. Tri-Village purchases its water from Owenton Water Works ("Owenton").
2. Owenton increased the wholesale water rate charged to Tri-Village from \$1.28 per 1,000 gallons to \$2.15 per 1,000 gallons purchased effective February 22, 1999. This rate includes a \$0.04 per 1,000 gallon surcharge to be in effect for the next three years.
3. During the 12 months ending February 15, 1999, Tri-Village purchased a total of 107,321,000 gallons of water and sold 84,768,400 gallons.
4. The increase in the cost of purchased water is \$93,369.27, resulting in a purchased water adjustment of \$1.10 per 1,000 gallons of water. Based on a monthly usage of 5,000 gallons, the average bill of a Tri-Village customer would increase \$5.50 from \$27.60 to \$33.10 or 19.93 percent.
5. The calculations provided by Tri-Village are correct.

6. The purchased water adjustment of \$1.10 per 1,000 gallons and the rates in Appendix A, attached hereto and incorporated herein, are fair, just, and reasonable and should be approved.

IT IS THEREFORE ORDERED that:

1. The purchased water adjustment of \$1.10 per 1,000 gallons and the rates in Appendix A are approved for services rendered on and after April 15, 1999.

2. At such time as Tri-Village no longer pays the \$0.04 surcharge to Owenton, Tri-Village shall file a revised tariff reducing its rate by \$0.04 per 1,000 gallons.

3. The tariff submitted by Tri-Village is hereby rejected as filed for failure to use proper tariff form.

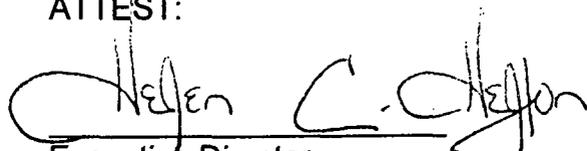
4. Within 20 days of the date of this Order, Tri-Village shall file a new tariff.

5. Within 20 days of the date of this Order, Tri-Village shall file verification that notice to its customers has been given.

Done at Frankfort, Kentucky, this 3rd day of June, 1999.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 99-177 DATED JUNE 3, 1999

The following rates and charges are prescribed for the customers in the area served by Tri-Village Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

Monthly Water Rates

First	2,000 gallons	\$16.78	Minimum bill
Next	4,000 gallons	5.44	per 1,000 gallons
Next	4,000 gallons	5.34	per 1,000 gallons
Next	10,000 gallons	5.24	per 1,000 gallons
Over	20,000 gallons	5.04	per 1,000 gallons



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

May 14, 1999

Carol F. Tudor
Manager
Tri-Village Water District
3700 Highway 127 N.
Owenton, KY. 40359

RE: Case No. 99-177
TRI-VILLAGE WATER DISTRICT

The Commission staff has reviewed your application in the above case and finds that it meets the minimum filing requirements. Enclosed please find a stamped filed copy of the first page of your filing. This case has been docketed and will be processed as expeditiously as possible.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie J. Bell".

Stephanie Bell
Secretary of the Commission

SB/sh
Enclosure

Tri-Village Water District

3700 Highway 127N

Owenton, KY 40359-9309

Phone 502-484-5774

1-800-443-9069 FAX 502-484-0966

MAY 04 1999
PSC
COMM

FILED

May 3, 1999

MAY 4 1999

**PUBLIC SERVICE
COMMISSION**

CASE 99-177

Carryn Lee
Rates & Tariffs Manager
Kentucky Public Service Commission
730 Schenkel Lane
Frankfort, Ky. 40602

RECEIVED

MAY 4 - 1999

PSC
FINANCIAL ANALYSIS

Dear Ms. Lee:

We are enclosing the Purchased Water Rate Adjustment Sheets and the Tariff sheets for the increase in the purchased water from Owenton and we are also including tariff sheets for the Bulk Sales. We have not had an increase in Bulk sales since October 1984 Case # 9025. The customers on the water line have had several increases since then, they are now paying \$16.78 for their first 2000 gallons. We also incur a cost of better than \$1200.00 dollars a average year just to operate the coin station. These cost include repair parts of approximately \$450.00 per year, Electric of at least \$375.00, labor of \$150.00 and general maintenance of \$150.00. It is with these cost in mind that we submit that the bulk sales should be raised from \$3.00 per thousand gallons to \$6.00 per thousand.

If further information is needed, please advise.

Sincerely,

Carol F. Tudor

Carol F. Tudor, Manager
Tri-Village Water District



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

May 4, 1999

Carol F. Tudor
Manager
Tri-Village Water District
3700 Highway 127 N.
Owenton, KY. 40359

RE: Case No. 99-177
TRI-VILLAGE WATER DISTRICT
(Rates - PWA)

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received May 4, 1999 and has been assigned Case No. 99-177. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

Stephanie Bell

Stephanie Bell
Secretary of the Commission

SB/jc

Tri-Village Water District

3700 Highway 127N
Owenton, KY 40359-9309
Phone 502-484-5774
1-800-443-9069 FAX 502-484-0966

RECEIVED
MAY 04 1999
PUBLIC SERVICE
COMMISSION

FILED

May 3, 1999

MAY 4 1999

**PUBLIC SERVICE
COMMISSION**

CASE 99-177

Carryn Lee
Rates & Tariffs Manager
Kentucky Public Service Commission
730 Schenkel Lane
Frankfort, Ky. 40602

RECEIVED
MAY 4 - 1999
PSC
FINANCIAL ANALYSIS

Dear Ms. Lee:

We are enclosing the Purchased Water Rate Adjustment Sheets and the Tariff sheets for the increase in the purchased water from Owenton and we are also including tariff sheets for the Bulk Sales. We have not had an increase in Bulk sales since October 1984 Case # 9025. The customers on the water line have had several increases since then, they are now paying \$16.78 for their first 2000 gallons. We also incur a cost of better than \$1200.00 dollars a average year just to operate the coin station. These cost include repair parts of approximately \$450.00 per year, Electric of at least \$375.00, labor of \$150.00 and general maintenance of \$150.00. It is with these cost in mind that we submit that the bulk sales should be raised from \$3.00 per thousand gallons to \$6.00 per thousand.

If further information is needed, please advise.

Sincerely,

Carol F. Tudor
Carol F. Tudor, Manager
Tri-Village Water District

P.S.C. Ky. No.

Cancels P.S.C. Ky. No. 9025.....

FILED

TRI-VILLAGE Water District

MAY 4 1999

**PUBLIC SERVICE
COMMISSION**

OF

Owen County

Rates, Rules and Regulations for Furnishing

Water

AT

3700 Hwy. 127 N. Owenton, Ky. 40359

**Filed with PUBLIC SERVICE COMMISSION OF
KENTUCKY**

ISSUED....., 19.....

EFFECTIVE.....5-1-....., 19.99..

ISSUED BY...Tri-Village Water District
(Name of Utility)

BY ...Carol F. Tudor
Manager

Form for filing Rate Schedules

For Owen, Grant & Gallatin Co.
Community, Town or City

P.S.C. NO. _____

SHEET NO. 14A

TRI-VILLAGE WATER DISTRICT

CANCELLING P.S.C. NO. 9025

Name of Issuing Corporation

SHEET NO. 1

CLASSIFICATION OF SERVICE

	RATE PER UNIT
BULK SALES \$6.00 per 1000 gallons	

DATE OF ISSUE May 3, 1999

DATE EFFECTIVE May 1, 1999

ISSUED BY Carol F. Tudor
Name of Officer

TITLE Manager

Issued by authority of an Order of the Public Service Commission of Kentucky
in Case No. _____ dated _____

PURCHASED WATER RATE ADJUSTMENT

Pursuant to KRS 278.012 and 278.015

TRI-VILLAGE WATER DISTRICT

(Name of Utility)

May 3, 1999

(Date)

3700 Hwy. 127 N.

Owenton, Ky. 40359

(Business Mailing Address)

502-484-5774

(Telephone Number)

- (a) Names of all wholesale suppliers and the base rate and changed rate of each. In the event the water purchased is billed by the supplier on other than a flat rate schedule, the entire rate schedule must be shown. Attach additional sheets if necessary.

<u>Supplier(s)</u>	<u>Base Rate</u>	<u>Changed Rate</u>
(1) <u>Owenton Water Works</u>	<u>\$1.28</u>	<u>\$2.15</u>
(2) _____	_____	_____
(3) _____	_____	_____

- (b) A copy of the supplier's notice of the changed rate showing the effective date of the increase is attached as Exhibit PSC order enclosed.

- Twelve-month Period Upon Which Purchased Water Adjustment is Based

From 3-15-98 through 2-15-99
 Month & Year Month & Year

- Statement of Water Purchases (Where water is purchased from more than one supplier, purchases from each supplier must be shown separately. Where water is purchased from a supplier through more than one meter and bills are computed individually for each meter, purchases should also be shown separately for each meter.)

The following was enclosed in all customer water bills mailed April 30, 1999.

Carol F. Tudor

Carol F. Tudor, Manager
Tri-Village Water District

**NOTICE TO ALL CUSTOMERS OF
TRI-VILLAGE WATER DISTRICT**

Tri-Village Water District has received notice of the new rate to be charged for wholesale water purchases from Owenton Water Works effective 2/22/99. The new rate to be charged is \$2.15 per thousand gallons. Prior to this increase, the rate charged was \$1.28 per thousand gallons. Pursuant to the provisions of 807 KAR 5:068, Tri-Village Water District has applied with the Public Service Commission of Kentucky for a purchased Water Adjustment. The New Rates charged to the customers of Tri-Village Water District effective April 15, 1999 shall incorporate the above increase and will be reflected in all future billings. The new rates set forth are as follows:

First	2,000 gallons	\$16.78 Minimum Bill
Next	4,000 gallons	5.44 per 1,000 gallons
Next	4,000 gallons	5.34 per 1,000 gallons
Next	10,000 gallons	5.24 per 1,000 gallons
Over	20,000 gallons	5.04 per 1,000 gallons

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE)
WHOLESALE WATER SERVICE RATES OF) CASE NO. 98-283
THE CITY OF OWENTON, KENTUCKY)

ORDER

The city of Owenton, Kentucky ("Owenton") proposes to adjust the rate of wholesale water service to Tri-Village Water District ("Tri-Village") from \$1.28 per 1,000 gallons to \$2.22 per 1,000 gallons, or 73.4 percent. Based upon its water sales to Tri-Village during the test period, this proposed adjustment would generate additional annual revenue of \$97,546. By this Order, the Commission denies the proposed adjustment and authorizes Owenton to increase its wholesale water service rate to \$2.11 per 1,000 gallons and to assess a temporary surcharge of \$.04 per 1,000 gallons to recover rate case expenses.

COMMENTARY

Owenton is a city of the fifth class that, through its Water and Sewer Department, operates facilities providing water and sanitary sewer service. Owenton provides retail water service to 1,022 customers and wholesale water service to Tri-Village. On January 5, 1993, Owenton and Tri-Village executed a water purchase contract that requires Owenton to provide Tri-Village with a daily maximum of 500,000 gallons of water. The parties entered the contract as part of a financing agreement with the

Farmers Home Administration ("FmHA") for the construction of an addition to Owenton's water treatment plant. The water purchase contract has a term of 50 years.

PROCEDURE

On April 29, 1998, Owenton filed a proposed revision to its existing rate for wholesale water service to Tri-Village. Upon Tri-Village's objection to the proposed rate and after finding that further proceedings were necessary to determine the reasonableness of the proposed rate, the Commission suspended the proposed rate until October 31, 1998 and established a procedural schedule. The Commission further granted Tri-Village leave to intervene in this proceeding.

Following discovery in this proceeding, the Commission held a public hearing on the proposed rate on January 11, 1999. Testifying at this hearing were William Gill, chairman of Owenton's Water and Sewer Department; D. Scott Taylor, professional engineer; and William C. Babington, consultant. This case stood submitted for decision on February 5, 1999 when both parties submitted written briefs.

TEST PERIOD

Owenton proposes and the Commission accepts the 12-month period ending June 30, 1997 ("Fiscal Year 1997") as the test-period for determining the reasonableness of the proposed rate. In using this historic test period, the Commission has given full consideration to appropriate known and measurable changes.

REVENUES AND EXPENSES

Operating Expenses

During Fiscal Year 1997, Owenton incurred expenses of \$459,997 to operate its water treatment and distribution facilities. Tri-Village has disputed neither the accuracy

nor reasonableness of the expenses. Accordingly, the Commission finds that \$459,997 should be used to determine Owenton's wholesale water service rate.¹

Debt Service Requirements

During the test period, Owenton had 3 outstanding long-term debt obligations. It reports that the debt service requirements associated with these obligations were \$71,260.² The Commission accepts these requirements for rate-making purposes.

COST ALLOCATION

Owenton proposes to allocate to Tri-Village approximately \$213,805 of its total operating expenses of \$459,997 and \$17,591 of its \$71,260 debt service costs. Of the allocated operating expenses, approximately \$164,248 is attributable to water treatment functions and \$48,837 is attributable to distribution functions. These allocations produce a wholesale water service rate of \$2.22 per 1,000 gallons of water.

In support of its proposed allocation, Owenton has presented a detailed cost-of-service study. Based upon this study, Owenton allocated water treatment costs based upon the ratio of total gallons of water sold to Tri-Village to total gallons sold.

¹ Owenton's total operating expenses, as reported in Owenton's Audit Report for Fiscal Year 1997, are \$458,394. In its cost-of-service study, Owenton reported total operating expenses of \$459,997. The cost-of-service study reported additional salaries and wages of \$1,170 and purchase power expense of \$433. Because Owenton provided detailed information in support of these latter figures, the Commission has chosen to rely upon the amounts stated in its cost-of-service study. See Owenton's Response to the Commission's Order of November 5, 1998, Item 5; Owenton's Response to the Commission's Order of December 18, 1998, at 8.

² The debt service payments with this debt were as follows:

Waterworks Revenue Bonds of 1988	\$17,350
Waterworks Revenue Bonds of 1994 – Series A	42,750
Waterworks Revenue Bonds of 1994 – Series B	<u>11,160</u>
Total:	<u>\$71,260</u>

Owenton's allocation of distribution expenses was based upon the following factors: water use; inch-mile ratio of jointly used lines; distribution share; and adjustments.

Advocating rejection of the proposed cost allocation, Tri-Village contends that Owenton's cost allocation methodology is not consistent with the Water Purchase Contract or FmHA cost allocation methodology upon which the contract was based. Our review of the contract finds no support for any particular cost methodology. The contract provides no cost allocation methodology nor does it refer to any recognized cost allocation. As to an FmHA endorsed methodology, neither Tri-Village nor its witness Babington has referred to any published methodology that FmHA has endorsed or required.

The Commission acknowledges that the contract contains some cost allocation principles. Paragraph C5 of the contract specifically provides that a 1992 FmHA grant of \$314,900 will "accrue only to the Purchaser [Tri-Village] for the purpose of reducing the Purchaser's portion of the debt service associated with the 1992 water supply project." It further provides for "a 10 percent debt service reserve or such other reserve as may be required by the bond holders." The absence of additional cost allocation principles in the contract, however, suggests that the parties either failed to consider or were unable to reach agreement upon any comprehensive cost allocation methodology.

Assuming arguendo that the parties had reached some agreement upon cost methodology, such agreement is not binding upon the Commission. The Commission has "the right and duty to regulate rates and services, no matter what a contract provided." Board of Ed. of Jefferson County v. William Dohrman, Inc., 620 S.W.2d 328, 329 (Ky.App. 1981). While the Commission should give weight to the intent of the parties, its ultimate obligation is to establish rates that are fair, just and reasonable.

During the proceeding, Tri-Village offered an alternative wholesale rate of \$1.1430 per 1,000 gallons of water. This rate is comprised of a debt service component of \$.1657 per 1,000 gallons and an operation and maintenance expense component of \$.9773. It is based upon a purported cost-of-service study performed by Tri-Village witness Babington.

The Commission finds that Tri-Village's purported cost-of-service study should be given little weight. Based upon our review of his testimony, the Commission finds that the study's author had little understanding of cost allocation concepts and no experience in preparing cost-of-service studies. His cost allocation methodology does not comport with generally accepted rate-making practices or any recognized authority. The study contained no explanation of its proposed cost allocations nor did its author provide such explanation when testifying. Where a party has proposed to exclude all distribution expenses from the calculation of a wholesale rate, the Commission expects, at a minimum, a detailed explanation, supported by some empirical data, of why such exclusion is appropriate. In this case, that explanation is totally lacking.

In contrast, Owenton's cost-of-service study is supported by significant empirical data. Each cost allocation factor is explained. Its author is experienced in preparing cost-of-service studies. Finally, Owenton's cost allocation methodology is consistent with generally accepted rate-making practices and generally recognized within the water utility industry. The Commission finds that Owenton's cost-of-service study, with the exceptions noted below, should be accepted as the basis for establishing the wholesale rate.

Having reviewed Owenton's cost-of-service study, the Commission finds that the total gallons sold factor was incorrectly calculated. Owenton allocates several joint

costs based upon the ratio of total gallons of water sold to Tri-Village. When calculating this factor, Owenton omitted from its calculation 5,475,000 gallons of water that Owenton provided to its Sewer Department at no charge. Owenton witness Taylor, the author of the cost-of-service study, agreed that this water should be considered when calculating this allocation factor.³ Taking into account this water, this allocation factor is reduced from .5933⁴ to .5754.⁵

The Commission further finds that Owenton's cost-of-service study incorrectly allocated the cost of operating expenses. Originally Owenton proposed to allocate all operating supplies expense equally between its water treatment and distribution functions. In post-hearing filings with the Commission, Owenton has indicated that these expenses should be totally allocated to the water treatment function. The Commission concurs with this change.

The Commission also finds that adjustments to the proposed allocation of water treatment costs are necessary. In its cost-of-service study, Owenton allocated water treatment expenses based upon the ratio of total gallons sold to Tri-Village. Use of this allocation is appropriate for those expenses classified as "commodity expenses" - expenses concerning chemicals, river pumping facilities and water treatment that vary directly with the amount of water sold. An allocation factor of .5348, however, should be

³ Transcript at 52. Taylor suggests that the omission of this water is offset by Owenton's failure to allocate to Tri-Village the cost of office space that the Sewer Department provided to the Water Department at no charge. Since the cost of such office space has not been calculated and no allocation attempted, the Commission has made no provision for it.

⁴ $103,772,000/174,876,100 = .5933$.

⁵ $103,772,000/180,351,100 = .5754$.

used for all other treatment expenses. This factor takes into consideration water loss and plant use and results from the calculation of the ratio of water sales and the water production multiplier. The water production multiplier shows that when line loss, plant use, and the inch mile ratio are considered, Owenton must produce 1.3156 gallons to sell one gallon to its retail customers and must produce 1.2228 gallons to sell one gallon to Tri-Village. These adjustments are reflected in Appendix B.

The Commission has made adjustments to Owenton's allocation of distribution costs using the ratio of gallons sold to Tri-Village to total sales, multiplied by the inch mile ratio of jointly used lines. The Commission's adjustments result in an increase in the allocation of distribution costs from Owenton's proposed rate of \$.47 to \$.50 per 1,000 gallons. These adjustments are set out in detail in Appendix B.

In establishing Owenton's wholesale rate, the Commission has included depreciation expense. Arguing that the FmHA does not consider depreciation as a cost of producing water,⁶ Tri-Village has opposed such inclusion. The Commission, however, finds that Kentucky law requires such inclusion. See Public Service Commission v. Dewitt Water District, Ky., 720 S.W.2d 725, 731 (1986) ("The Commission is required by statute to treat depreciation as an operating expense to provide an adequate fund for renewals, replacement and reserves.") Moreover, it is generally recognized that depreciation is "a real part of the cost of operating a utility, whether government or investor owned." American Water Works Association, Manual M1, Water Rates (4th ed. 1991) at 3.

⁶ Transcript at 90.

In establishing Owenton's wholesale rate, the Commission has rejected Tri-Village's contention that Owenton's retail rates must also be considered. "The powers of the PSC are purely statutory and it has only such powers as are conferred expressly or by necessity or fair implication. As a statutory agency of limited authority, the PSC cannot add to its enumerated powers." Boone County Water and Sewer District v. Public Service Commission, Ky., 949 S.W.2d 588, 591 (1997). While the Commission has been granted the authority to review a municipal utility's wholesale rates to public utilities, Simpson County Water District v. City of Franklin, Ky., 872 S.W.2d 460 (1994), it has no authority over a municipal utility's retail rates. Owenton's retail rates, therefore, are not properly within the Commission's scope of review. To the extent that the Commission has carefully reviewed the cost components that comprise Owenton's wholesale rate, moreover, there is no need to review Owenton's retail rates.

In summary, the Commission finds that Owenton's wholesale rate should provide for the following components: \$.17 per 1,000 gallons for debt service; \$1.44 per 1,000 gallons for water treatment costs; and, \$.50 per 1,000 gallons for distribution costs. Owenton's rate for wholesale water service to Tri-Village should be \$2.11 per 1,000 gallons.

RATE CASE EXPENSE

Owenton requests recovery of \$15,861.11 for expenses incurred to prosecute its application for rate adjustment. In support of its request, it contends that these expenses are directly related to its sale of water to Tri-Village and, therefore, are most appropriately borne by Tri-Village. It further argues that the expenses were incurred as a direct result of Tri-Village's failure to negotiate in good faith as required by the Water Purchase Contract.

Tri-Village objects to the requested recovery of any rate case expenses. Tri-Village argues that Owenton, having waited until after the hearing on the proposed rate adjustment to make its request, has not brought its request in a timely manner and should be barred from any recovery. Tri-Village further contends that, as a result of Owenton's late request, it has been deprived of any meaningful opportunity to question these expenses. Finally, the water district contends that, Owenton, not Tri-Village, failed to comply with the Water Purchase Contract by applying to the Commission for a rate adjustment.

Rate case expenses have long been considered as appropriate expenses for inclusion in utility rates. In West Ohio Gas Co. v. Public Utilities Comm'n, 294 U.S. 63, 74 (1935), the United States Supreme Court held that such expenses "must be included among the costs of operation in the computation of a fair return." It declared that "[t]he charges of engineers and counsel, incurred in defense of its security and perhaps its very life, were as appropriate and even necessary as expenses could well be." Id.

As a general matter, reasonable rate case expenses are usually borne by all customers. The present case, however, is not a usual case. The Commission regulates only a portion of Owenton's operations. It does not regulate Owenton's retail operations nor is Owenton required to obtain Commission approval for those rates. As the costs associated with Commission review are clearly associated only with Owenton's wholesale rate, the Commission finds that these costs should be attributed to Owenton's wholesale operations only.

The Commission agrees with Tri-Village's position that some rate case expenses are affected by the Water Purchase Contract. According to Paragraph C5 of that contract, the parties are to equally bear the cost of "a study on the cost of water

production and distribution by the Seller to the Purchaser." Clearly, a portion of Owenton's rate case expenses was incurred in the preparation of such a study. The Commission is of the opinion that equity and fairness require that both parties equally bear those costs. Of the total amount of rate case expense claimed, approximately \$5,032 is related to the cost-of-service study. The cost of this study should be allocated equally among the parties and only \$2,516 considered recoverable rate case expenses.

The Commission specifically rejects each party's arguments that the other failed to comply with the Water Purchase Contract's terms. The record clearly shows that both parties failed to request the performance of a cost-of-service study by an independent party and that both made only lukewarm attempts to negotiate a resolution to their dispute. Neither party comes to the Commission with clean hands.

Based upon its review of the record, the Commission finds that Owenton incurred reasonable rate case expenses of \$11,346. The Commission has disallowed that portion of the claimed expense for which no invoices have been submitted. The Commission further finds that Owenton should be permitted to recover its rate case expenses over a 3-year period through a temporary surcharge on the rate that it charges Tri-Village.

The Commission denies Tri-Village's objections that the request for rate case expense recovery is untimely and deprives it of a meaningful opportunity to review those expenses. The issue of rate case expense was timely raised at the hearing in this matter, and Tri-Village had the opportunity to review and voice its objections to any expense in its post-hearing brief.

SUMMARY

After review of the evidence of the record and being otherwise sufficiently advised, the Commission finds that:

1. Based upon its adjusted operations for Fiscal Year 1997, Owenton requires \$459,997 annually to meet its reasonable operating expenses, including depreciation, to provide water service to all customers.
2. During Fiscal Year 1997, approximately \$200,872 of Owenton's operating expenses was incurred to provide water service to Tri-Village.
3. During Fiscal Year 1997, approximately \$17,591 of Owenton's debt service requirement was related to providing service to Tri-Village.
4. Owenton's total annual revenue requirement to provide water service to Tri-Village is \$218,463.
5. A complete allocation of Owenton's cost of serving Tri-Village is set forth in Appendix B to this Order.
6. Based upon Owenton's sales to Tri-Village during Fiscal Year 1997, a wholesale rate of \$2.11 per 1,000 gallons of water will produce annual revenue sufficient to meet Owenton's cost of serving Tri-Village.
7. Owenton should be permitted to recover \$11,346 of rate case expenses through a temporary surcharge assessed over a 3-year period.
8. The rates in Appendix A to this Order are the fair, just, and reasonable rates for Owenton.

9. The rate proposed by Owenton is unjust and unreasonable and should be denied.

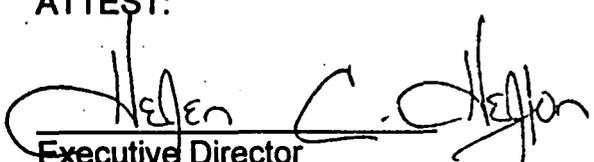
IT IS THEREFORE ORDERED that:

1. The rates set forth in Appendix A are approved for water service rendered by Owenton to Tri-Village on and after the date of this Order.
2. The rate proposed by Owenton is denied.
3. Owenton is authorized to assess a surcharge of \$.04 per 1,000 gallons on water sales to Tri-Village for a period of 3 years from the date of this Order, or until it has collected revenues of \$11,346 from this surcharge, whichever occurs first.
4. Within 30 days of the date of this Order, Owenton shall file revised tariff sheets reflecting the rates approved herein.

Done at Frankfort, Kentucky, this 22nd day of February, 1999.

By the Commission

ATTEST:


Executive Director